

C. Third Party Defendant

3. Third Party Defendant, WELLBORE FISHING & RENTAL TOOLS, LLC, is a Louisiana corporation which does business in the State of Texas. Said Defendant may be served with this Third-Party Complaint by serving its registered agent for service, Jason Lawson at 2400 N. FM 1788, Midland, Texas 79707. Issuance and service of Summons along with this Third-Party Complaint on said Third Party Defendant is requested at this time.

**II.
Initial Complaint**

4. Third-Party Plaintiff D&L MANUFACTURING, INC. D/B/A D&L OIL TOOLS is the Defendant in a lawsuit filed by Plaintiff, ENCANA OIL & GAS (USA) INC. D&L is the manufacturer of downhole equipment used for oil and gas wells. Plaintiff claims a production packer (“the packer”) manufactured by Defendant which Plaintiff purchased from WFR was defective and caused a well-control incident on May 19, 2015 at the Dromgoole “B” Unit 8H well in Karnes County, Texas (the “Well-Control Incident”). Plaintiff claims it spent millions of dollars in post-incident well control, clean-up, and settlement of claims arising out of the Well-Control Incident. Specifically, Plaintiff seeks compensatory damages, exemplary damages, and attorney’s fees based on theories of negligence, strict liability under Chapter 82 of the Texas Civil Practice & Remedies Code (failure to warn, manufacturing defect, and design defect,), breach of express warranty, breach of implied warranty of merchantability, and breach of implied warranty of fitness for a particular purpose from Third-Party Plaintiff.

**III.
Third-Party Complaint**

5. As the distributor and seller of the packer, Third-Party Defendant WFR could be, but has not been, sued by Plaintiff in this action. In fact, pursuant to the provisions of their

purchase agreement, Plaintiff has filed an arbitration proceeding against Third-Party Plaintiff WFR regarding its claims arising out of the sale and subsequent use of the packer, including the instructions and representations regarding use of the packer made to Plaintiff by Third-Party Defendant. Third-Party Defendant is or could be liable to Plaintiff for all or part of the damages claimed against Third-Party Plaintiff pursuant to Sections 82.003(4) and (5) of the Texas Civil Practice and Remedies.

6. Defendant/Third-Party Plaintiff denies Plaintiff's allegations and any liability for the claims made in this case. However, pleading in the alternative and while denying that Defendant/Third-Party Plaintiff was negligent, it is the contention of Defendant/Third-Party Plaintiff that the Well-Control Incident and the damages resulting therefrom were solely and proximately caused by the acts and/or omissions of Third-Party Defendant WFR. Therefore, Third-Party Plaintiff is entitled to indemnity or, in the alternative, contribution from Third-Party Defendant, WFR pursuant to Chapter 33 of the Texas Civil Practice & Remedies Code.

WHEREFORE, PREMISES CONSIDERED, Defendant/Third-Party Plaintiff D&L MANUFACTURING, INC. D/B/A D&L OIL TOOLS prays that (1) Third-Party Defendant WELLBORE FISHING & RENTAL TOOLS, LLC be cited to answer and appear herein; (2) Defendant/Third-Party Plaintiff have judgment against Third-Party Defendant WELLBORE FISHING & RENTAL TOOLS, LLC for all indemnity and contribution available to Defendant/Third-Party Plaintiff under the laws of the State of Texas for any sums recovered by Plaintiff against Defendant/Third-Party Plaintiff herein; (3) Defendant/Third-Party Plaintiff recover its post-judgment interest, costs of court, and reasonable attorney's fees; and (4) the Court award Defendant/Third-Party Plaintiff all other relief to which it may be deemed justly entitled, whether at law or in equity.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT/THIRD-PARTY
PLAINTIFF D&L MANUFACTURING, INC. D/B/A
D&L OIL TOOLS**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing ***Defendant's Third-Party Complaint*** was electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following on this 8th day of February 2018:

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